

REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 112, are respectfully requested in light of the following remarks.

Claims 60-79, 81-87 and 89-91 remain in this application. Claims 1-59 and 92-118 were previously cancelled. Claim 65 has been amended to be in independent form and to incorporate the subject matter of claim 60 from which it previously depended. Claim 66 has been amended to depend from claim 65. Claim 77 has been amended to be in independent form and to incorporate the subject matter of claim 60 from which it previously depended and to correct typographical errors. Claims 78, 83 and 90 have been amended to correct typographical errors. Claims 82-84 have been amended to depend from claim 60 rather than from previously cancelled claim 80, which had been incorporated into claim 60. Claims 85, 90 and 91 have been amended to be in independent form and to correct typographical errors. Claims 86 and 87 have been amended to depend from claims 85 and 86 respectively, rather than from cancelled claim 80.

No new matter has been introduced as a result of the foregoing amendments.

Applicants gratefully acknowledge the withdrawal of: (1) the rejection of claims 60, 62-73, 75-78, 80-83 and 88 on the ground of non-statutory obviousness-type double patenting over co-pending Application No. 10/580,459 as published in U.S. Patent Application Publication 2007/0106030 on May 10, 2007; (2) the rejection of claims 60-62, 67-76, 79, 80, 82, 83, 85, 86 and 89 under 35 U.S.C. §103(a) as

unpatentable over Prévôté et al.; and (3) the rejection of claims 60-62, 64-66, 68, 69 and 79 under 35 U.S.C. §102(b) as being anticipated by Matthews et al. (US 6,464,971).

Applicants also gratefully acknowledge the Examiner's indication that Claims 65, 66, 77, 90 and 91 as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims have been amended to place them in condition for allowance.

Applicants also gratefully acknowledge the Examiner's indication that Claims 85-87 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph. These claims have been amended to place them in position for allowance.

Statement of Substance of Interview Summary

Applicants thank the Examiner for his time and effort with respect to the telephonic interview of February 19, 2009 where the gelling properties of the dendritic polymers of the instant application were contrasted with those of the prior art, which do not form a gel. It was noted that, absent structural differences between the dendrimers of the instant invention and dendrimers of the prior art, gelling would be an inherent property of the dendrimer. Amendments to the claims where hydrogen was deleted as a species from the definition of X in the phosponic group were also discussed. The Examiner indicated that such an amendment would require reconsideration of Caminade and would probably necessitate a new search of the prior art.

35 U.S.C. §112, second paragraph rejection

Claims 82-87 have been rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. These claims depended from cancelled claim 80.

Claims 82, 83 and 84 have been amended to depend from claim 60. Claim 85 has been amended to be in independent form. Claim 86 has been amended to depend from claim 85 and claim 87 has been amended to depend from claim 86.

Applicants respectfully submit that Claims 82-87 particularly point out and distinctly claim the subject matter which the applicant regards as the invention and request that this rejection of these claims be withdrawn.

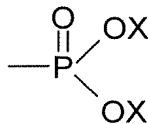
35 U.S.C. §102(b) prior art rejections

Claims 60-64, 67-76, 78, 79, 81-84 and 89 have been rejected under 35 U.S.C. §102(b) as being anticipated by Caminade et al. (WO 00/53009) as shown in US 6,939,831.

It is well established that in order to demonstrate anticipation over 35 U.S.C. § 102(b), each feature of the claim at issue must be found, either expressly described or under principles of inherency, in a single prior art reference. See, *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 789 (Fed. Cir. 1983).

The Office Action states that Caminade discloses dendrimers with phosphonic terminal groups (col. 13, lines 1-3).

Caminade does not teach a terminal group at the end of each intermediate chain where the terminal group is composed of the group of formula:



where X is methyl. At the time of the invention, the only dendrimers comprising phosphonic type terminal groups were disclosed in Prévôté et al. (J. Org. Chem. 1997, 62, 4834-4841). The terminal groups disclosed in Prévôté et al. comprised terminal groups with the formula -P(=O)(OEt)_2 . These terminal groups could not lead to dendrimers comprising a phosphonic acid moiety because the O-ethyl bond needs to be hydrolyzed, but hydrolysis of the O-ethyl bond requires very strong conditions which affect the dendrimer structure and lead to degradation products. One of ordinary skill in the art could not produce dendrimers having the required phosphonic acid type structure based on the disclosure in Caminade. The inventors of the instant application have determined that only terminal groups comprising the terminal -P(=O)(OMe)_2 group could be hydrolyzed so as to lead to the phosphonic acid moiety. This is because mild hydrolysis conditions can be used to break the O-methyl bond.

Anne-Marie Caminade, an inventor of both the instant application and US 6,939,831 has provided the enclosed Declaration Under Section 132, which further explains the above points in greater detail.

Therefore the claims of the instant application are not anticipated by Caminade because Caminade does not disclose the phosphonic terminal groups and discloses structures which are different from those of the instant claims.

Applicants respectfully submit that the claims are not anticipated by Caminade et al. and the rejection should be withdrawn.

In view of the foregoing, it is believed that entry of the proposed amendments should be allowed and that the record rejections cannot be maintained against the proposed claims once entered into this application. Further, favorable action in the form of a Notice of Allowance is believed to be next in order and is earnestly solicited.

Respectfully submitted,

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